

Introduced by Senator Sher

February 21, 2003

An act to amend Sections 21083.8.1, 21108 and 21152 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 647, as amended, Sher. Environmental quality: ~~notice of determination.~~

~~(1) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect, unless the project is exempt from the act. The act~~ *The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA requires that, when preparing and certifying an environmental impact report for a military base or reservation, as defined, the determination of whether the reuse plan may have a significant effect on the environment may be made in the context of the physical conditions that were present at the time that the federal decision became final for the closure or realignment of the base or reservation.*

These provisions of existing law contain cross-references to provisions of law that have been repealed.

This bill would delete those obsolete cross-references and would make other conforming changes.

CEQA authorizes state and local lead agencies or project proponents to file a notice of determination with the Office of Planning and Research or the county clerk, as prescribed, whenever the lead agency determines that a project is not subject to the act and the lead agency approves or determines to carry out the project. With regard to local lead agencies, the county clerk is required to post the notice and return it to the agency, which is required to retain the notice for not less than 9 months.

This bill would instead require the local lead agency to retain the filed notice of determination for not less than 12 months, thereby imposing a state-mandated local program by imposing new duties on the local agency. The bill would also, with regard to state lead agencies, require the Office of Planning and Research to retain a filed notice of determination for not less than 12 months.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 21083.8.1 of the Public Resources Code*
 2 *is amended to read:*
 3 21083.8.1. (a) (1) For purposes of this section, “reuse plan”
 4 for a military base or reservation has the same meaning as the term
 5 as defined in paragraph (1) of subdivision (a) of Section 21083.8
 6 means an initial plan for the reuse of a military base adopted by
 7 a local government or a redevelopment agency in the form of a
 8 general plan, general plan amendment, specific plan,
 9 redevelopment plan, or other planning document, except that the
 10 reuse plan shall also consist of a statement of development
 11 policies, include a diagram or diagrams illustrating its provisions,
 12 and make the designation required in paragraph (2) of this section.
 13 “Military base” or “base” means a military base or reservation

1 *either closed or realigned by, or scheduled for closure or*
2 *realignment by, the federal government.*

3 (2) The reuse plan shall designate the proposed general
4 distribution and general location of development intensity for
5 housing, business, industry, open space, recreation, natural
6 resources, public buildings and grounds, roads and other
7 transportation facilities, infrastructure, and other categories of
8 public and private uses of land.

9 (b) (1) When preparing and certifying an environmental
10 impact report for a reuse plan, including when utilizing an
11 environmental impact statement pursuant to Section 21083.5, ~~in~~
12 ~~addition to the procedure authorized pursuant to subdivision (b) of~~
13 ~~Section 21083.8~~, the determination of whether the reuse plan may
14 have a significant effect on the environment may be made in the
15 context of the physical conditions ~~which~~ *that* were present at the
16 time that the federal decision became final for the closure or
17 realignment of the base ~~or reservation~~. The no project alternative
18 analyzed in the environmental impact report shall discuss the
19 existing conditions on the base, as they exist at the time that the
20 environmental impact report is prepared, as well as what could be
21 reasonably expected to occur in the foreseeable future if the reuse
22 plan were not approved, based on current plans and consistent with
23 available infrastructure and services.

24 (2) For purposes of this division, all public and private
25 activities taken pursuant to, or in furtherance of, a reuse plan shall
26 be deemed to be a single project. However, further environmental
27 review of any such public or private activity shall be conducted if
28 any of the events specified in Section 21166 have occurred.

29 (c) Prior to preparing an environmental impact report for which
30 a lead agency chooses to utilize the provisions of this section, the
31 lead agency shall do all of the following:

32 (A) Hold a public hearing at which is discussed the federal
33 environmental impact statement prepared for, or in the process of
34 being prepared for, the closure of the military base ~~or reservation~~.
35 The discussion shall include the significant effects on the
36 environment examined in the environmental impact statement,
37 potential methods of mitigating those effects, including feasible
38 alternatives, and the mitigative effects of federal, state, and local
39 laws applicable to future nonmilitary activities. Prior to the close
40 of the hearing, the lead agency may specify the baseline conditions

1 for the reuse plan environmental impact report prepared, or in the
2 process of being prepared, for the closure of the base ~~or~~
3 ~~reservation~~. The lead agency may specify particular physical
4 conditions ~~which~~ *that* it will examine in greater detail than were
5 examined in the environmental impact statement. Notice of the
6 hearing shall be given as provided in Section 21092. The hearing
7 may be continued from time to time.

8 (B) Identify pertinent responsible agencies and trustee
9 agencies and consult with those agencies prior to the public
10 hearing as to the application of their regulatory policies and
11 permitting standards to the proposed baseline for environmental
12 analysis, as well as to the reuse plan and planned future
13 nonmilitary land uses of the base ~~or reservation~~. The affected
14 agencies shall have not less than 30 days prior to the public hearing
15 to review the proposed reuse plan and to submit their comments
16 to the lead agency.

17 (C) At the close of the hearing, the lead agency shall state in
18 writing how the lead agency intends to integrate the baseline for
19 analysis with the reuse planning and environmental review
20 process, taking into account the adopted environmental standards
21 of the community, including, but not limited to, the applicable
22 general plan, specific plan, and redevelopment plan, and including
23 other applicable provisions of adopted congestion management
24 plans, habitat conservation or natural communities conservation
25 plans, integrated waste management plans, and county hazardous
26 waste management plans.

27 (D) At the close of the hearing, the lead agency shall state, in
28 writing, the specific economic or social reasons, including, but not
29 limited to, new job creation, opportunities for employment of
30 skilled workers, availability of low and moderate income housing,
31 and economic continuity, which support the selection of the
32 baseline.

33 (d) (1) Nothing in this section shall in any way limit the scope
34 of a review or determination of significance of the presence of
35 hazardous or toxic wastes, substances, or materials including, but
36 not limited to, contaminated soils and groundwater, nor shall the
37 regulation of hazardous or toxic wastes, substances, or materials
38 be constrained by prior levels of activity that existed at the time
39 that the federal agency decision to close the military base ~~or~~
40 ~~reservation~~ became final.

(2) This section does not apply to any project undertaken pursuant to Chapter 6.5 (commencing with Section 25100) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of the Health and Safety Code, or pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(3) This section may apply to any reuse plan environmental impact report for which a notice of preparation pursuant to subdivision (a) of Section 21092 is issued within one year from the date that the federal record of decision was rendered for the military base ~~or reservation~~ closure or realignment and reuse, or prior to January 1, 1997, whichever is later, if the environmental impact report is completed and certified within five years from the date that the federal record of decision was rendered.

(e) All subsequent development at the military base ~~or reservation site~~ shall be subject to all applicable federal, state, or local laws, including, but not limited to, those relating to air quality, water quality, traffic, threatened and endangered species, noise, and hazardous or toxic wastes, substances, or materials.

SEC. 2. Section 21108 of the Public Resources Code is amended to read:

21108. (a) Whenever a state agency approves or determines to carry out a project that is subject to this division, the state agency shall file notice of that approval or that determination with the Office of Planning and Research. The notice shall indicate the determination of the state agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.

(b) Whenever a state agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172, and the state agency approves or determines to carry out the project, the state agency or the person specified in subdivision (b) or (c) of Section 21065 may file notice of the determination with the Office of Planning and Research. Any notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the state agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section

1 21080 or pursuant to Section 21172. The certificate of
2 determination may be in the form of a certified copy of an existing
3 document or record of the state agency.

4 (c) All notices filed pursuant to this section shall be available
5 for public inspection, and a list of these notices shall be posted on
6 a weekly basis in the Office of Planning and Research. Each list
7 shall remain posted for a period of 30 days. The Office of Planning
8 and Research shall retain each notice for not less than 12 months.

9 ~~SEC. 2.—~~

10 *SEC. 3.* Section 21152 of the Public Resources Code is
11 amended to read:

12 21152. (a) Whenever a local agency approves or determines
13 to carry out a project that is subject to this division, the local agency
14 shall file notice of the approval or the determination within five
15 working days after the approval or determination becomes final,
16 with the county clerk of each county in which the project will be
17 located. The notice shall indicate the determination of the local
18 agency whether the project will, or will not, have a significant
19 effect on the environment and shall indicate whether an
20 environmental impact report has been prepared pursuant to this
21 division. The notice shall also include certification that the final
22 environmental impact report, if one was prepared, together with
23 comments and responses, is available to the general public.

24 (b) Whenever a local agency determines that a project is not
25 subject to this division pursuant to subdivision (b) of Section
26 21080 or pursuant to Section 21172, and the local agency approves
27 or determines to carry out the project, the local agency or the
28 person specified in subdivision (b) or (c) of Section 21065 may file
29 a notice of the determination with the county clerk of each county
30 in which the project will be located. A notice filed pursuant to this
31 subdivision by a person specified in subdivision (b) or (c) of
32 Section 21065 shall have a certificate of determination attached to
33 it issued by the local agency responsible for making the
34 determination that the project is not subject to this division
35 pursuant to subdivision (b) of Section 21080 or Section 21172.
36 The certificate of determination may be in the form of a certified
37 copy of an existing document or record of the local agency.

38 (c) All notices filed pursuant to this section shall be available
39 for public inspection, and shall be posted within 24 hours of receipt
40 in the office of the county clerk. A notice shall remain posted for

1 a period of 30 days. Thereafter, the clerk shall return the notice to
2 the local agency with a notation of the period it was posted. The
3 local agency shall retain the notice for not less than 12 months.

4 ~~SEC. 3.—~~

5 *SEC. 4.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of
10 Section 17556 of the Government Code.

